

HOUSE BILL No. 1359

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8.

Synopsis: Employment of veterans as public safety officers. Waives the maximum hiring age restrictions that apply to the appointment and hiring of police officers and firefighters for an individual who is a veteran of the armed forces and who meets certain requirements. Provides that an individual who is appointed as a police officer or a firefighter as the result of a waiver is not eligible to become a member of the 1977 police officers' and firefighters' pension and disability fund.

Effective: July 1, 2016.

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January 12, 2016, read first time and referred to Committee on Veterans Affairs and Public Safety.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1359

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-8-3.5-12, AS AMENDED BY P.L.99-2007,
2 SECTION 214, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) **Subject to IC 36-8-4.7**, to
4 be appointed to the department, an applicant must be:
5 (1) a citizen of the United States;
6 (2) a high school graduate or equivalent; and
7 (3) at least twenty-one (21) years of age, but under thirty-six (36)
8 years of age.
9 However, the age requirements do not apply to a person who has been
10 previously employed as a member of the department.
11 (b) A person may not be appointed, reappointed, or reinstated if he
12 has a felony conviction on his record.
13 (c) Applications for appointment or reappointment to the
14 department must be filed with the commission. The applicant must
15 produce satisfactory proof of the date and place of his birth.
16 (d) Applicants for appointment or reappointment to the department
17 must pass the general aptitude test required under IC 36-8-3.2-3 or



1 IC 36-8-3.2-3.5. The general aptitude test shall:

- 2 (1) reflect the essential functions of the job;
 3 (2) be conducted according to procedures adopted by the
 4 commission; and
 5 (3) be administered in a manner that reasonably accommodates
 6 the needs of applicants with a disability.

7 The results of the general aptitude test shall be filed with the
 8 commission. If the commission finds that the applicant lacks the proper
 9 qualifications, it shall reject the applicant.

10 (e) The applicants shall then be rated on the selection criteria and
 11 testing methods adopted by the commission, which may include mental
 12 alertness, character, habits, and reputation. The commission shall adopt
 13 rules for grading the applicants, including the establishment of a
 14 passing score. The commission shall place the names of applicants with
 15 passing scores on an eligibility list by the order of their scores and shall
 16 certify the list to the safety board.

17 (f) **This subsection is subject to IC 36-8-4.7.** If an applicant for
 18 original appointment reaches his thirty-sixth birthday, his name shall
 19 be removed from the eligibility list. Applicants remain on the list for
 20 two (2) years from the date of certification. After two (2) years a person
 21 may reapply as an applicant.

22 (g) When a vacancy occurs in the department, the commission, upon
 23 a written request of the chief of the department, shall administer the
 24 physical agility test under IC 36-8-3.2-3 or IC 36-8-3.2-3.5 to the
 25 applicant having the highest score on the eligibility list. If the
 26 appointed applicant successfully completes the physical agility test, the
 27 applicant shall then be enrolled as a member of the department to fill
 28 the vacancy if:

- 29 (1) the applicant is still of good character; and
 30 (2) the applicant passes the required examinations identified in
 31 IC 36-8-3.2-6 and IC 36-8-8-19.

32 (h) All appointments are probationary for a period not to exceed one
 33 (1) year. If the commission finds, upon the recommendation of the
 34 department during the probationary period, that the conduct or capacity
 35 of the probationary member is not satisfactory, the commission shall
 36 notify him in writing that he is being reprimanded, that he is being
 37 suspended, or that he will not receive a permanent appointment. If a
 38 member is notified that he will not receive a permanent appointment,
 39 his employment immediately ceases. Otherwise, at the expiration of the
 40 probationary period the member is considered regularly employed.

41 SECTION 2. IC 36-8-4-7 IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2016]: Sec. 7. (a) **Subject to IC 36-8-4.7**, a



person may not be appointed as a member of the police department or fire department after the person has reached thirty-six (36) years of age. A person may be reappointed as a member of the department only if the person is a former member or a retired member not yet receiving retirement benefits of the 1925, 1937, 1953, or 1977 fund and can complete twenty (20) years of service before reaching sixty (60) years of age.

(b) This section does not apply to a fire chief appointed under a waiver under section 6(c) of this chapter or a police chief appointed under a waiver under section 6.5(c) of this chapter.

(c) A person must pass the aptitude, physical agility, and physical examination required by the local board of the fund and by IC 36-8-8-19 to be appointed or reappointed as a member of the department.

(d) A fire chief appointed under a waiver under section 6(c) of this chapter or police chief appointed under a waiver under section 6.5(c) of this chapter who is receiving, or is entitled to receive, benefits from the 1925, 1937, 1953, or 1977 fund may receive those benefits while serving as chief, subject to all normal requirements for receipt of a benefit, including a separation from service.

SECTION 3. IC 36-8-4.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 4.7. Employment of Veterans as Public Safety Officers

Sec. 1. This chapter applies after June 30, 2016, to an appointing authority of a police department or a fire department.

Sec. 2. As used in this chapter, "appointing authority" means:

- (1) the chief executive officer, board, or other entity of a police department with authority to appoint and hire a member of the police department; or**
- (2) the chief executive officer, board, or other entity of a fire department with authority to appoint and hire a member of the fire department.**

Sec. 3. As used in this chapter, "armed forces" means the active and reserve components of the following:

- (1) The United States Army.**
- (2) The United States Navy.**
- (3) The United States Air Force.**
- (4) The United States Marine Corps.**
- (5) The United States Coast Guard.**
- (6) The Indiana National Guard.**

Sec. 4. As used in this chapter, "veteran" means an individual



1 who has served or is serving in the armed forces.

2 **Sec. 5. (a) Notwithstanding any contrary law, an appointing**
 3 **authority shall waive any age restriction that applies to the**
 4 **appointment and hiring of an individual as:**

5 (1) a member of the police department; or

6 (2) a member of the fire department;

7 if the individual meets the requirements of subsection (b).

8 (b) An individual who meets all the following requirements is
 9 entitled to the waiver described in subsection (a):

10 (1) On the date the individual applies to be appointed and
 11 hired as:

12 (A) a member of the police department; or

13 (B) a member of the fire department;

14 the individual is a veteran who has completed at least twenty
 15 (20) years of military service.

16 (2) The individual received or is eligible to receive an
 17 honorable discharge from the armed forces.

18 (3) The individual meets all other requirements for
 19 appointment and hiring as:

20 (A) a member of the police department; or

21 (B) a member of the fire department;

22 including all physical requirements.

23 (c) An individual who is entitled to the waiver described in
 24 subsection (a) is not eligible to become a member of the 1977 fund.

25 SECTION 4. IC 36-8-8-7, AS AMENDED BY P.L.111-2015,
 26 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2016]: Sec. 7. (a) **Subject to IC 36-8-4.7** and except as
 28 provided in subsections (d), (e), (f), (g), (h), (k), (l), and (m):

29 (1) a police officer; or

30 (2) a firefighter;

31 who is less than thirty-six (36) years of age and who passes the baseline
 32 statewide physical and mental examinations required under section 19
 33 of this chapter shall be a member of the 1977 fund and is not a member
 34 of the 1925 fund, the 1937 fund, or the 1953 fund.

35 (b) A police officer or firefighter with service before May 1, 1977,
 36 who is hired or rehired after April 30, 1977, may receive credit under
 37 this chapter for service as a police officer or firefighter prior to entry
 38 into the 1977 fund if the employer who rehires the police officer or
 39 firefighter chooses to contribute to the 1977 fund the amount necessary
 40 to amortize the police officer's or firefighter's prior service liability over
 41 a period of not more than thirty (30) years, the amount and the period
 42 to be determined by the system board. If the employer chooses to make



the contributions, the police officer or firefighter is entitled to receive credit for the police officer's or firefighter's prior years of service without making contributions to the 1977 fund for that prior service. In no event may a police officer or firefighter receive credit for prior years of service if the police officer or firefighter is receiving a benefit or is entitled to receive a benefit in the future from any other public pension plan with respect to the prior years of service.

(c) Except as provided in section 18 of this chapter, a police officer or firefighter is entitled to credit for all years of service after April 30, 1977, with the police or fire department of an employer covered by this chapter.

(d) A police officer or firefighter with twenty (20) years of service does not become a member of the 1977 fund and is not covered by this chapter, if the police officer or firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981); and
- (3) is rehired after April 30, 1977, by the same employer.

(e) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

- (1) was hired before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);
- (3) was rehired after April 30, 1977, but before February 1, 1979; and
- (4) was made, before February 1, 1979, a member of a 1925, 1937, or 1953 fund.

(f) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the police officer or firefighter:

- (1) was hired by the police or fire department of a unit before May 1, 1977;
- (2) did not convert under IC 19-1-17.8-7 or IC 19-1-36.5-7 (both of which were repealed September 1, 1981);
- (3) is rehired by the police or fire department of another unit after December 31, 1981; and
- (4) is made, by the fiscal body of the other unit after December 31, 1981, a member of a 1925, 1937, or 1953 fund of the other unit.

If the police officer or firefighter is made a member of a 1925, 1937, or 1953 fund, the police officer or firefighter is entitled to receive credit



for all the police officer's or firefighter's years of service, including years before January 1, 1982.

(g) As used in this subsection, "emergency medical services" and "emergency medical technician" have the meanings set forth in IC 16-18-2-110 and IC 16-18-2-112. A firefighter who:

- (1) is employed by a unit that is participating in the 1977 fund;
- (2) was employed as an emergency medical technician by a political subdivision wholly or partially within the department's jurisdiction;
- (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
- (4) ceased employment with the political subdivision and was hired by the unit's fire department due to the reorganization of emergency medical services within the department's jurisdiction;

shall participate in the 1977 fund. A firefighter who participates in the 1977 fund under this subsection is subject to sections 18 and 21 of this chapter.

(h) A police officer or firefighter does not become a member of the 1977 fund and is not covered by this chapter if the individual was appointed as:

- (1) a fire chief under a waiver under IC 36-8-4-6(c); or
- (2) a police chief under a waiver under IC 36-8-4-6.5(c);

unless the executive of the unit requests that the 1977 fund accept the individual in the 1977 fund and the individual previously was a member of the 1977 fund.

(i) A police matron hired or rehired after April 30, 1977, and before July 1, 1996, who is a member of a police department in a second or third class city on March 31, 1996, is a member of the 1977 fund.

(j) A park ranger who:

- (1) completed at least the number of weeks of training at the Indiana law enforcement academy or a comparable law enforcement academy in another state that were required at the time the park ranger attended the Indiana law enforcement academy or the law enforcement academy in another state;
- (2) graduated from the Indiana law enforcement academy or a comparable law enforcement academy in another state; and
- (3) is employed by the parks department of a city having a population of more than one hundred ten thousand (110,000) but less than one hundred fifty thousand (150,000);

is a member of the fund.

(k) Notwithstanding any other provision of this chapter, a police officer or firefighter:



- (1) who is a member of the 1977 fund before a consolidation under IC 36-3-1-5.1 or IC 36-3-1-6.1;
- (2) whose employer is consolidated into the consolidated law enforcement department or the fire department of a consolidated city under IC 36-3-1-5.1 or IC 36-3-1-6.1; and
- (3) who, after the consolidation, becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 36-3-1-5.1 or IC 36-3-1-6.1;

is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(l) Notwithstanding any other provision of this chapter, if:

- (1) before a consolidation under IC 8-22-3-11.6, a police officer or firefighter provides law enforcement services or fire protection services for an entity in a consolidated city;
- (2) the provision of those services is consolidated into the law enforcement department or fire department of a consolidated city; and
- (3) after the consolidation, the police officer or firefighter becomes an employee of the consolidated law enforcement department or the consolidated fire department under IC 8-22-3-11.6;

the police officer or firefighter is a member of the 1977 fund without meeting the requirements under sections 19 and 21 of this chapter.

(m) A police officer or firefighter who is a member of the 1977 fund under subsection (k) or (l) may not be:

- (1) retired for purposes of section 10 of this chapter; or
 - (2) disabled for purposes of section 12 of this chapter;
- solely because of a change in employer under the consolidation.

(n) Notwithstanding any other provision of this chapter and subject to subsection (o), a police officer or firefighter who:

- (1) is an active member of the 1977 fund with an employer that participates in the 1977 fund;
- (2) separates from that employer; and
- (3) not later than one hundred eighty (180) days after the date of the separation described in subdivision (2), becomes employed as a full-time police officer or firefighter with a second employer that participates in the 1977 fund;

is a member of the 1977 fund without meeting for a second time the age limitation under subsection (a) and the requirements under sections 19 and 21 of this chapter. A police officer or firefighter to whom this subsection applies is entitled to receive credit for all years of 1977 fund covered service as a police officer or firefighter with all employers that



1 participate in the 1977 fund.

2 (o) The one hundred eighty (180) day limitation described in
3 subsection (n)(3) does not apply to a member of the 1977 fund who is
4 eligible for reinstatement under IC 36-8-4-11.

